

REMARKS

In response to the rejection under 35 USC 112, “especially of coconut milk” has been deleted from claims 1 and 2, and claim 3 has been cancelled. New claims 4 and 5 have been presented that depend on claims 1 and 2, respectively, and recite that “the free surface fat is coconut milk powder”.

Reconsideration of the rejection of claims 1 and 2 under 35 USC 103 as being obvious over Fitzpatrick in view of Le Gloahec is respectfully requested. As the Examiner acknowledges, Fitzpatrick does not mention the use of alginates. The Le Gloahec reference relates to the use of an algin compound in dairy products. The Le Gloahec document describes the use of alginates and their effect at page 1, column 1, line 51 – column 2, line 7 as follows:

“Alginous material has remarkable properties as an emulsifying dispersing and stabilizing agent. Alginous material is advantageous not only because of its effect in increasing the viscosity of the material with which it is mixed, but also because it has the tendency to maintain particles or granules in suspension absorbed on or with the alginous micellae. Alginous material also has an emulsifying effect due to the fact that it lowers the superficial tension of the continuous phase of the emulsion.”

This described use of alginate and its effect is an example of the use, found in the prior art, described in the present application in the paragraph bridging pages 1 and 2.

Le Gloahec discloses dissolving the alginate in water (page 2, column 2, lines 35-37) to obtain an alginate mixture in either dry or liquid form (page 2, column 2, lines 66-74), and adding this mixture to the (liquid) dairy product. This, too, is an example of the use, found in the prior art, described in the present application in the paragraph bridging pages 1 and 2.

However, as is explained on page 2, first full paragraph of the present application, the use of alginates in instantization was not known prior to the present invention. Prior to the present invention, it was believed, as is also explained on page 2, first full paragraph of the present application, that the effect of alginates in liquid is to coagulate the liquid and thus to counteract instantization. This is precisely what the Le Gloahec document appears to describe, as exemplified by the quote shown above from page 1, column 1, line 51 – column 2, line 7 of Le Gloahec.

The Examiner indicates that, although Le Gloahec does not explicitly describe spraying the alginate mixture on particles and further drying the particles, Le Gloahec does describe that the alginate mixture is used to prepare milk powder or ice-cream powder. She specifically refers in this regard to page 4, column 2, line 10 of Le Gloahec. However, these lines alone are out of context. When the entire paragraph to which the Examiner refers is considered, it is clear that Le Gloahec discloses that a product processed according to the method of Le Gloahec can be dehydrated and in this way processed to form a powder. However, dehydration appears to be a step that occurs after alginate is mixed with the liquid dairy product – just as described in the prior art referred to in the present application.

The Examiner states that page 4, column 2, line 10 of Le Gloahec means that particle powders will come into contact with the algin solution. However, as the applicants have indicated above, the algin is employed earlier in the process, the milk products are produced by the process (page 4, column 1, line 72 – column 2, line 1), and the milk products can be dehydrated to produce a powder product (column 2, lines 1-12). It is clear that the powder is the final product and that no processing of the powder takes place. More particularly, it is clear that

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it is not inherent that the powder product of Le Gloahec will come into contact with an algin solution. Thus, the use of alginates on food powder and in particular for instantization is not disclosed by Le Gloahec.

Furthermore, it would not have been obvious for one of ordinary skill to use lecithin and alginate in the same step of the method, as is emphasized most clearly in paragraphs 19, 30 and 31 of the present US patent application. For this reason also, the subject matter of the present invention is not obvious from the cited prior art.

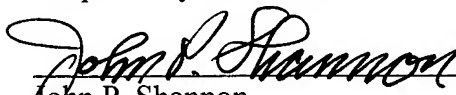
In view of the foregoing, it is submitted that all of the claims are allowable and that the application is in condition for allowance. An early notice to that effect is respectfully requested.

Although the Examiner relies on GB 2,035,035 (Fitzpatrick), that reference is not listed on the Examiner's PTO-892 form. The applicants intended to list the reference in the Information Disclosure Statement, but inadvertently listed the wrong document number. It is respectfully requested that the Examiner list GB 2,035,035 (Fitzpatrick) on a PTO-892.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0562.

Respectfully submitted,

Date: 2-11-10


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